(1)S.B.CIVIL WRIT PETITION NO.1102/2001
(M/s Shree Gayatri Minerals v. State & Anr.)

(2)S.B.CIVIL WRIT PETITION NO.1153/2001
(M/s Mukesh Industries v. State & Anr.)

(3)S.B.CIVIL WRIT PETITION NO.1154/2001
(M/s Dangi Ball Mills v. State & Anr.)

(4)S.B.CIVIL WRIT PETITION NO.1155/2001
(M/s Modi Minerals v. State & Anr.)

(5)S.B.CIVIL WRIT PETITION NO.1376/2001
(M/s Thirupati Minerals v. State & Anr.)

(6)S.B.CIVIL WRIT PETITION NO.1377/2001
(M/s Kamal Pulverizers v. State & Anr.)

(7)S.B.CIVIL WRIT PETITION NO.1378/2001
(M/s Dangi Minerals & Chemicals v. State & Anr.)

(8)S.B.CIVIL WRIT PETITION NO.1379/2001
(M/s Gadiya Grinding Mills v. State & Anr.)

(9)S.B.CIVIL WRIT PETITION NO.1391/2001
(M/s Praveen Pulverizers v. State & Anr.)

(10)S.B.CIVIL WRIT PETITION NO.1438/2001
(M/s Jai Minerals & Chemicals v. State & Anr.)

(11)S.B.CIVIL WRIT PETITION NO.1439/2001
(M/s Mahaveer Pulverizers v. State & Anr.)

(12)S.B.CIVIL WRIT PETITION NO.1440/2001
(M/s Jaishree Enterprises v. State & Anr.)

(13)S.B.CIVIL WRIT PETITION NO.1483/2001
(M/s Sampat Grinding Mills v. State & Anr.)

(14)S.B.CIVIL WRIT PETITION NO.1484/2001
(M/s Shree Mineral Udhyog v. State & Anr.)

(15)S.B.CIVIL WRIT PETITION NO.1485/2001
(M/s Gupta Pulverizers v. State & Anr.)

(16)S.B.CIVIL WRIT PETITION NO.1486/2001
(M/s Ganesh Minerals Industries v. State & Anr.)

(17)S.B.CIVIL WRIT PETITION NO.1487/2001
(M/s Ganga Mineral Grinding Ind. v. State & Anr.)

(18)S.B.CIVIL WRIT PETITION NO.1507/2001
(M/s Ganesh Grinding Mills v. State & Anr.)

(19)S.B.CIVIL WRIT PETITION NO.1508/2001
(Partner Rajendra Kumar Mutha v. State & Anr.)

(20)S.B.CIVIL WRIT PETITION NO.1509/2001
(M/s Modern Processors v. State & Anr.)

(21)S.B.CIVIL WRIT PETITION NO.1522/2001
(M/s Shree Gridning Mills v. State & Anr.)

Date of Order :: 16th July, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sundeep Bhandawat, for the petitioners.
Mr. Ravi Bhansali, for the respondents.

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By these petitions for writ a challenge is given to determination of fuel surcharge by the respondents under “Tariff for Supply of Electricity of 1985” (hereinafter referred to as “the Tariff of 1985”). According to the petitioners the respondent Board calculated fuel surcharge @ 110.27 per unit for the year 1998-99 and Rs.125.22 per unit for the year 1999-2000, but if calculation is made on basis of the facts provided by the Board in its “Pragati Prativedan” (Progress Report), the fuel surcharge should be Rs.96.11 per unit for the year 1998-99 and Rs.113.88 per unit for the year 1999-2000.

In reply to the writ petitions filed on behalf of the Government of Rajasthan it is stated that “Pragati Prativedan” is nothing but a mere projection of achievement made by the electricity supply company (Board) and it cannot take place as a shape of any circular or order determining final rates for calculating surcharge.

The respondent Board came up with the case that final rate of the fuel surcharge for the year 1998-99 was approved by the Board of Directors by circular dated 31.7.2000 and that was worked out as Rs.110.27 per unit. While determining the fuel surcharge as above, the provisions of the cost variation and fuel adjustment as provided under the Tariff of 1985 as amended time to time were observed. It is further stated the the bill of all categories of consumers except domestic and agriculture were revised on basis of surcharge determined. The final rate of fuel surcharge for the year 1999-2000 was also approved by the Board of Directors vide circular dated 9.2.2001 as Rs.125.22 per unit. According to the respondents the surcharge was determined as according to the formulate provided under the Tariff of 1985. It is asserted on behalf of the respondents that "Pragati Prativedan"/Progress Report is a document narrating progress of electricity company and the figures given in it cannot be treated final. The factual aspect mentioned in the report are tentative and also subject to correction on basis of final out come.

Having considered the arguments advanced by counsel for the parties, I am of the considered opinion that though "Pragati Prativedan"/Progress Report is published by the electricity supply company but merely on basis of the facts given in that the fuel surcharge determined cannot be challenged. The

facts given in the progress report are tentative and subject to final out come of all details relating to cost variation etc. at the end of accounting year. The statement given on behalf of the respondents to the effect that fuel surcharge was determined on basis of cost variation and on basis of formulate given under Tariff of 1985 cannot be disbelieved. The “Pragati Prativedan”/Progress Report is as a matter of fact introductory document issued by the respondent electricity company based on tentative figures, the figures given in it cannot be used to substitute the actual figures. The reliance placed on figures given in “Pragati Prativedan”/Progress Report is absolutely misconceived, as such these petitions for writ are having no merit.

The same, therefore, are dismissed.

(GOVIND MATHUR),J.

Kkm/ps.